

**REMARKS/ARGUMENTS**

**Claim amendment**

Claim 1 is amended to clarify the generating step, to refer to objective criteria used to measure the positive impact, and to remove the selecting step. Support for removal of the selecting step can be found in paragraph 158 in the description.

Claims 2 and 10 are amended to clarify the repetition of the generating step.

Claims 3-7 are cancelled.

Claims 8 and 18 are amended for clarity.

Claims 11-12, 17, and 19-20 are cancelled.

Claim 23 is added to further define the constraints.

New claim 24 is added to claim the selecting step.

New claims 25-28 correspond to original claims 4-7, respectively, now cancelled.

**Claims 1-22 are rejected under 35 USC 101 as being directed to non-statutory subject matter.** Applicant respectfully traverses this rejection.

Although Applicant disagrees with the examiner's rejection, Applicant has amended claim 1 to emphasize the objective criteria directed to achieving a concrete and predictable result. The first two steps (assigning priorities and defining a set of constraints) are both input steps. Both explicitly define the step. It does not matter what particular data forms the input, the method will operate on the input. Hence, the input could be derived from any relevant source. Once the input is obtained, a computer is used to generate release plan solutions having definite characteristics. Again, given the input and the operation of the computer, a definite set of release plan solutions are obtained. Hence, claim 1, and also claims 1-22, are directed to a concrete and predictable result.

Claims 3, 12 and 18 were also specifically mentioned by the examiner as lacking a concrete and predictable result. Claims 3 and 12 are cancelled and therefore the rejection of these claims is moot. Claim 18 has been amended to indicate that the release plans are a set of maximally

distinct alternative release plan solutions where for each solution the degree of optimality is known, which illustrates a useful, concrete, and tangible result.

Applicant therefore submits that all of the claims, as previously and currently written, would be understood by a worker of ordinary skill in the art as providing a result that is useful, concrete, and tangible, and are thus patentable.

**Claims 1-3, 8-17 and 19-22 have been rejected under 35 USC 102(b) as being anticipated by Carlshamre.** Applicant respectfully traverses this rejection.

Step A of the Applicant's invention as defined by claim 1 requires: "assigning stakeholder priorities to a set of requirements, where the priorities are assigned by plural stakeholders". Nowhere does Carlshamre teach this step. Carlshamre presents a study of a release plan program using three different companies. While acknowledging that customers/users play a role in the evaluation process (page 7: "Release planning is also part of the overall strategic product planning, which is a continuous work of meeting with customers and listening to the market changes and demands"), he doesn't teach or suggest that the priorities are assigned by plural stakeholders themselves. Therefore, the claims as written are not anticipated by Carlshamre.

Step B of the Applicant's invention as defined by claim 1 requires: "explicitly defining a set of constraints on the requirements". Nowhere does Carlshamre teach this step. Carlshamre discloses that resource demands are estimated (page 7) for the requirements, but he doesn't teach or suggest a set of constraints on the requirements. In order to generate effective release plans, a set of constraints is required, in order to take into account other constraints that will affect the release of the software. Therefore, the claims as written are not anticipated by Carlshamre.

Step C of the Applicant's invention as defined by claim 1 requires: "generating a set of release plan solutions using algorithms carried out by a computer, the set of release plan solutions satisfying the constraints, balancing between stakeholder priorities of different stakeholders, and having a positive impact, measured by objective criteria, on at least one of project time, overall

cost and quality”. There is nothing in Carlshamre that teaches or suggests this step. There is absolutely no mention of balancing between stakeholder priorities of different stakeholders, especially since there is no mention of plural stakeholders. Further, there is absolutely no mention of a set of release plan solutions having a positive impact, measured by objective criteria, on at least one of project time, overall cost and quality. The only measurement given in Carlshamre on the effectiveness of a release plan gives the percent of the total value of the current requirements (page 3). This is not a positive impact as required by the Applicant’s claim 1. Therefore, the claims as written are not anticipated by Carlshamre.

Furthermore, the claims as written are not obvious in view of Carlshamre. Carlshamre presents an “overly simplistic and structuralistic view” (abstract). His aim was not to solve the problem of release planning, but to provoke understanding from conducting interviews. The main contribution of Carlshamre is his provotype software, which he describes as having “several serious shortcomings related to the degree of interactivity, underlying models, the presentation of information, and the general appearance” (abstract). Carlshamre has not created a working tool that performs the same function as the Applicant’s method as defined by claim 1, and Carlshamre is clear in his admittance of this fact. Thus, the Applicant’s method as defined by claim 1 cannot be obvious in view of Carlshamre, since Carlshamre’s product does not perform the same function as the Applicant’s method, and therefore could not lead a worker of ordinary skill in the art to the Applicant’s method as defined by claim 1.

**Claims 4-7 and 18 have been rejected under 35 USC 103(a) as being unpatentable over Carlshamre in view of Harman et al.** Applicant respectfully traverses this rejection. Harman relates to the field of search-based software engineering, and not release planning. Therefore, Harman adds nothing to Carlshamre and is completely irrelevant. Thus, the Applicant’s claims are not obvious over Carlshamre in view of Harman.

**Claim 7 has been rejected under 35 USC 103(a) as being unpatentable over Carlshamre in view of Harman et al and further in view of Lu.** Applicant respectfully traverses this rejection. Lu relates to the field of web-based multi-objective decision support systems, and not

to release planning. Therefore, Lu adds nothing to the deficiencies of Carlshamre and Harman and is completely irrelevant. Thus, the Applicant's claims are not obvious over Carlshamre in view of Harman.

All claims are therefore submitted to be patentable over the cited references.

Reconsideration and withdrawal of the rejections, and allowance of the claims, is respectfully requested.

Respectfully submitted,

A rectangular box containing a handwritten signature in cursive script that reads "Tony Lambert".

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